IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 937 of 2005 (S/S)

Om Veer Singh S/o Sri Suba Singh
R/o Presently posted as Assistant Teacher
PT, Govt. Inter College, Lakhwar,
Tehsil Chakrata
District Dehradun …….. Petitioner

Versus

1. State of Uttaranchal through
   Secondary Education
   Government of Uttaranchal
   Secretariat Dehradun
2. Joint Director Education
   Garhwal Division
   Pauri
3. District Education Officer
   Dehradun …….. Respondents

Sri B.P. Nautiyal, learned counsel for the petitioner
Sri H Belwal, learned standing counsel for the State

Hon'ble B.C. Kandpal, J.

By means of this writ petition a relief has been sought in the nature of certiorari quashing the impugned transfer order dated 29.06.2005 (annexure No. 10 to the petitioner) passed by the respondent No. 2.

Brief facts giving rise to this petition are that the petition was appointed as Assistant Teacher PT in C.T. Grade as per appointment order dated 31.03.1981. Later on the services of the petitioner were merged in L.T. Grade as the C.T. grade was declared dying cadre.

At the time of the joining of his service the petitioner opted for place cadre in pursuance of Government Order No. 9599/15/1122779 dated 25.10.1980. He was relieved by the State of Uttaranchal as per order dated 31.07.2002, but the State of U.P. refused to give joining to the petitioner there. Thereafter, the petitioner came back to join his services in the State of Uttaranchal and he was joined his services at G.I.C.

Lakhwar vide order dated 15.05.2003 passed by Joint Director Education, Pauri Garhwal.

The respondent No. 2 i.e. Joint Director Education, Pauri has been transferred from G.I.C. Lakhwar, Dehradun to G.I.C. Dangnailchami, District Tahri Garhwal vide impugned transfer order dated 29.06.2005.

Feeling aggrieved by the aforesaid impugned transfer order, the petitioner has preferred this writ petition before this Court.

Heard learned counsel for the petitioner as well as learned standing counsel for the state and perused the record.

Learned counsel for the petitioner has placed before me Government Order No. 718/XXIV(2)/2005 dated 13.05.2005 providing the Rules of Transfer of Teacher relating to Basic and Secondary Education.

I do not find any force in the argument advanced by the learned counsel for the petitioner. It is always at the discretion of the authorities concerned to consider the Government Order at the time when the officials are transferred from one place to another. At the same time Government Order cannot take the shape of the law.

In view of the above discussion, I am of the view that the writ petition is finally disposed of with a direction that the petitioner shall file fresh representation before the respondent No. 2 within a period of 15 days, who shall re-consider and decide the representation of the petitioner in the light of the Government Order which has been mentioned by me in the body of the judgment, within a period of 30 days from the date of receipt of the certified copy of the judgment by passing speaking and reasoned order.

Accordingly, the writ petition is disposed of finally.

(B.C. Kandpal, J.)

13.07.2005
ASWAL